

News Release



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Labor Department Obtains Default Judgment Against Baltimore Company and 401(k) Trustee

BALTIMORE, Md.--The U.S. Department of Labor obtained a default judgment on July 22, 2003, ordering AK Robins LLC of Baltimore, Md. and the trustee of the company's 401(k) plan to repay to the plan \$26,935.84 as restitution for failure to forward employee contributions to the plan.

Under the judgment, Sheila Canelos, the company's majority owner and sole plan trustee, will have her plan account offset if the losses are not otherwise restored to the plan. She also will be removed as the plan's trustee and permanently barred from serving any employee benefit plan covered by the Employee Retirement Income Security Act (ERISA). The company will be removed as the plan administrator and replaced by a court-appointed independent fiduciary, which will pay eligible participants and terminate the plan.

The department filed a lawsuit on April 17 in federal district court in Baltimore, alleging that Canelos failed to forward to the plan \$19,680.59 in contributions withheld from employees' paychecks between September 1998 and December 2000 and used the money to benefit the company. The department's Employee Benefits Security Administration's (EBSA) Washington district office investigated the case.

The food service equipment manufacturing company formerly maintained its principal place of business in Baltimore. Although Canelos filed for personal Chapter 13 bankruptcy on March 21, 2002, the bankruptcy court dismissed the case on Jan. 2, 2003. The 401(k) plan had eight participants and \$223,805 in assets as of Dec. 31, 2000.

Mabel Capolongo, director of EBSA's Philadelphia Regional Office, said, "The law clearly states that employee contributions must be forwarded to the plan to pay future promised benefits."

Capolongo noted that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the Department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole, but allows them to avoid EBSA enforcement actions and civil penalties, as well as excise taxes. For more information about the VFCP see www.dol.gov/ebsa

Employers and workers can contact the Washington District Office at (301) 713-2000 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector pension and health plans.

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(Chao v. Sheila Canelos)
Civil Action No 1:03-CV-1132

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